

Floor Statement of Rep. Tom Davis
Ranking Republican Member
Committee on Oversight and Government Reform
March 22, 2007
H.R. 1433, the District of Columbia House Voting Rights Act of 2007

It's often said, "If opportunity doesn't knock, build a door." With this bill, we can do just that.

Using the materials at hand today, we can open a portal to full democratic participation that for too long has remained locked. The circumstances are right, the stars are aligned, and the proposal is sound.

Four years ago, we saw a confluence of events that set the stage for the compromise we have before us today. Two injustices met to create this opportunity to correct both. On the one hand, a long ignored historical anomaly denies the citizens of the District of Columbia voting representation in Congress. On the other hand, a more recent problem with the census denies the citizens of Utah the additional House seat a truer count would have yielded. As it happens, one jurisdiction is predominantly Democratic, the other predominantly Republican. That circumstance opens the way to a politically neutral solution to both problems.

Throughout the nation's history, it's been just this kind of win-win compromise that – however rooted in the fleeting circumstances of the day – provided enduring solutions to seemingly intractable problems.

Each of us swears to uphold the Constitution: its letter and its spirit. That document is at its heart about the fundamental rights of citizens in a democracy. *All* the citizens. So we rely on the plenary power found in the District Clause to restore the full rights of citizenship to our disenfranchised countrymen and women. After researching every possible avenue to right these wrongs and give the citizens of the District and Utah the representation to which they are entitled, we concluded the approach before us today is both constitutionally sound and politically viable.

The former is our sworn duty. The latter a practical imperative.

In four years, I have seen no evidence that any member of this body seriously plans to attempt a retrocession or campaign for a Constitutional Amendment. There's a good reason for that. They aren't politically viable. Most members, including me, don't waste their time tilting at windmills.

By now every member is aware of the Constitutional arguments. I ask that you think carefully about what you hear today. Every first year law student in this country learns that you can't just read the Constitution once-over-literally to figure out what it means. But that's where the other side's argument starts and stops on this issue.

Those opposing this bill ignore 200 years of case law and clear instruction from the court that this is a congressional matter and requires a congressional solution. Under their reading of the Constitution:

- District residents would have no right to a jury trial – you have to be from a **state** to have that right.
- D.C. residents would have no right to sue people from outside D.C. in the federal courts – only people from **states** have that right.
- The Full, Faith and Credit clause would not apply to D.C. – that applies only between **states**; and,
- The federal government would not be allowed to impose federal taxes on the District – the Constitution says direct taxes shall be apportioned among the **several states**.

But in each of those cases the Supreme Court has held that Congress can consider the District a “state” for purposes of applying those fundamental provisions. If Congress has the authority to do so regarding those lesser rights and duties, there should be no question we have the same authority to protect the most sacred right of every American – to live and participate in a representative republic.

It should also be pointed out that Congress granted voting representation in 1790, when it accepted the land that would become the Federal City. It then removed those rights, *by statute*, ten years later. Those facts are undisputed. No amendment to the Constitution was considered necessary then. And those opposing the bill today will not explain, only assert, the claimed need for a Constitutional amendment to reverse a decision initially made through enactment of a statute.

This problem should be solved. It’s no answer, in fact it’s an outrage, this situation has persisted for 200 years. It should not continue for one more day.

A lot of people today will talk about the Framers of the Constitution. They will try to tell us that the Framers *intended* for the Federal City to have no direct representation. Really? Do you believe that if the Capitol had stayed in New York that city would have been disenfranchised? Do you believe that if the Capitol had stayed in Philadelphia that city would have been disenfranchised? Of course not, and neither should the people of Washington, D.C.

What we do know is that the men and women who fought and died to create this country were willing to die for people who might disagree with them politically. We should be able to look beyond the political differences of our day to fulfill the promise of the nation they forged.

This is no mere legal or political science exercise. It's a crisis. Your fellow Americans are being denied the full rights and benefits of representative government. We have before us, at this unique moment in our history, the opportunity to fulfill the promise of the Constitution and make our democracy whole again. I hope we hear opportunity knocking. And I hope we hear the faint but unmistakable whisper of conscience and of history urging us all to seize this moment with courage and humility.